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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,700	08/21/2000	Jacobus Theodorus Marais	23800	6863

7590

10/08/2002

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EXAMINER

BUMGARNER, MELBA N

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 10/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/582,700

Applicant(s)

Marais

Examiner

M. Bumgarner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 29, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3-8, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is not clear as to what medium, solution or solutions is/are applied in the method step; and in claim 8, it is not clear if there are two solutions which are separate streams. It is unclear what defines the terms medium and solution. Applicant's remarks on pages 4-5 describe two solutions which are separate and independently used; however, the claims recite a single solution. In claim 7, it is unclear what is meant by "a pH of up to about 7-13". In claim 10, it is unclear if the steps are in addition to the step of claim 9.

Claim Rejections - 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Malchesky (5,932,171). Malchesky discloses an irrigating medium comprising an electro-chemically

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activated, aqueous saline solution having microcidal, dispersing and surfactant properties (column 2 line 10). Malchesky also shows the solution producing a catholyte solution stream and anolyte solution stream. The recitation of intended use in the claim has not been given patentable weight.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen (3,996,126). Rasmussen discloses a method for irrigating teeth including the step of applying an electro-chemically activated, aqueous saline solution to a tooth for irrigation purposes; however, Rasmussen does not show irrigating a root canal. It is held to be an obvious matter of choice to one of ordinary skill in the art that irrigating "all parts of the teeth" as disclosed by Rasmussen may include the root canal of a tooth. It is held to be an obvious matter of choice to one of ordinary skill in the art as to indefinite limitations of the solution, see paragraph 2.

Allowable Subject Matter

7. Claims 4-7 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations

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of the base claim and any intervening claims.

Response to Arguments

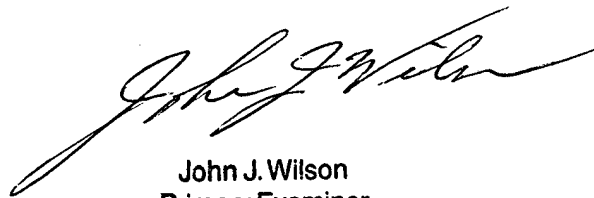
8. Applicant's arguments filed July 29, 2002 have been fully considered but they are not persuasive. The prior art shows the limitations of the rejected claims. Upon further review, it has been determined that claim 9 is broad and shown by prior art.

Conclusion

9. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Melba Bumgarner whose telephone number is (703) 305-0740.



Melba Bumgarner
FAX Number (703) 308-2708



John J. Wilson
Primary Examiner